

REMARKS/ARGUMENTS

Several pages of the specification have been amended to update the status of applications cited in the application. No new matter is presented with these amendments. No amendments are being presented in the claims.

A **Rule 131 Declaration** signed by all four Applicants is being presented herewith for reasons noted below.

Rejection Under 35 U.S.C. §102(a) & (e)

Claims 1-33 have been rejected as being anticipated by U.S. Patent 6,576,410 (Zou et al.). This rejection is respectfully traversed in view of the enclosed **Rule 131 Declaration** in which Applicants present a description of experiments in which they conceived and reduced to practice the presently claimed invention prior to the June 11, 2002 priority date of Zou et al. Moreover, the present application was filed within one year of the June 10, 2003 publication of Zou et al. Thus, Applicants believe that they have effectively “sworn behind” Zou et al., thereby obviating its use as a reference under Section 102.

Rejections Under 35 U.S.C. §103

I. Claims 1-33 have been rejected as unpatentable over Zou et al. taken with U.S. Patent 4,123,282 (Winslow et al.).

II. In addition, Claims 1, 2, 4, 6-8, 11-15, 17, 26, 28, and 30 have been rejected as unpatentable over U.S. Patent 4,584,267 (Masukawa et al.) in view of Zou et al.

III. Also, Claims 1-4, 6-15, 17, 26, 28, and 30 have been rejected as unpatentable over U.S. Patent 4,772,544 (Hirai et al.) in view of Zou et al.

All of these rejections are respectfully traversed on the merits. However, in order to expedite prosecution, Applicants again refer to the **Rule 131 Declaration** presented with this response that effectively removes Zou et al. as prior art for the present application. It is Applicants’ belief that none of these three rejections can be supported by Winslow et al., Masukawa et al., or Hirai et al. alone, in combination with each other, or in combination with other art of record in this case. Thus, all three rejections should be withdrawn.


In particular, for Rejection I, Zou et al. is cited as the primary reference and Winslow et al. is cited merely for its teaching of toning agents including phthalic acid in photothermographic materials. However, Winslow et al. clearly fails to teach the combination of features recited in the independent claims of the present application and thus cannot support an unpatentability rejection alone.

With respect to Rejection II, Masukawa et al. is cited for a number of features used in Applicants' claimed invention. However, Zou et al. is cited for an alleged showing of motivation to use silver benzotriazole in combination with ascorbic acid as the preferred reducing agent. Without such teaching in Masukawa et al., the rejection is unsupported.

Lastly, with respect to Rejection III, Harai et al. is cited for a number of features used in Applicants' claimed invention. However, Zou et al. is cited for an alleged showing of motivation to use the specific combination of silver benzotriazole with ascorbic acid as the preferred reducing agent. Without such teaching in Harai et al., the rejection is unsupported.

Since all issues have been properly addressed and in view of the foregoing amendments and remarks, reconsideration of this patent application is respectfully requested. A prompt and favorable action by the examiner is earnestly solicited.

Respectfully submitted,


Attorney for Applicant(s)
Registration No. 27,678

J. Lanny Tucker/s-p
Rochester, NY 14650
Telephone: (585) 722-9332
Facsimile: (585) 477-1148

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.